

ATTORNEY DOCKET No. 104.005-04

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Ken R. POWELL

Filed: September 26, 2003

Serial No. 10/670,297

For: SYSTEM AND METHOD FOR
DISTRIBUTING COUPONS THROUGH
A SYSTEM OF COMPUTER NETWORKS

Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

PETITION TO MAKE SPECIAL ON GROUNDS OF ACTUAL
INFRINGEMENT UNDER 37 CFR 1.102 AND MPEP 708.02 (II)

At least two claims of this Patent Application are infringed as the result of a program conducted by two companies, termed "Company A" and "Company B" in the Instant Petition.

The program conducted by Companies A and B results in an infringing apparatus and an infringing method used on the market. More specifically, one can type www.[Company B].com into a web browser, connected to an Internet Service Provider. After that, one can click through to a display (Display I) containing the text "Apply for a [Company A-Company B card] today," accompanied by a button APPLY NOW. The undersigned Attorney clicked on the button labeled APPLY NOW, completed an application presented online, and subsequently received a Company A-Company B card in the mail.

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Display I also includes the text "Order a smart card reader. Load Smart Coupons from your home computer," accompanied by a button ORDER NOW. The undersigned Attorney clicked on the button labeled ORDER NOW, completed an application presented online, and subsequently received a card reader and disk labeled "[Company B] smart Card Reader Software 2.0." Loading the disk into the D drive resulted in a directory "[Company A Company B]" containing files on the C drive.

Display I also includes the text "Load coupons to the smart chip on your [Company A-Company B card]," accompanied by a button LOAD COUPONS. Clicking on the LOAD COUPONS button resulted in the message "Do you want to install and run signed applet distributed by '[Company B] Corporation'?"

Equipped with the card, card reader, and software described above, one may click from the Company B site to another display (Display II). In Display II, there are different product coupons with product images.

Invoking the materials described above, the undersigned Attorney made a rigid comparison to claim 1 of the Instant Application and, in his opinion, claim 1 is unquestionably infringed. The undersigned Attorney made a rigid comparison to claim 6 of the Instant Application and, in his opinion, claim 6 is unquestionably infringed.

The undersigned Attorney believes he has a good knowledge of the pertinent prior art. The known references most closely related to the subject matter encompassed by the claims of the Instant Application are already of record, having been cited or submitted to the USPTO in prior Applications, having difference claim scope or subject matter, relied upon for an earlier filing date under 35 U.S.C. § 120. MPEP 609 ("the Examiner will consider information which has been considered by the

Office in a parent application and a list of the information need not be submitted in the continuation, divisional, or continuation-in-part application”).

The undersigned Attorney believes that all of the claims of the Instant
Application, claims 1-7, are allowable.


SUMMARY

Applicant respectfully submits that this Petition to Make Special demonstrates that this Application meets the requirements of MPEP 702.02 (II). The grant of this Petition is respectfully requested. If the USPTO is of the view that additional information is needed, Applicant respectfully requests that the USPTO contact the undersigned Attorney by telephone (703-684-4840) to obtain such information.

Exhibit A is the Declaration of Jerome D. Jackson, supporting the facts relied upon in this Petition.

For the foregoing reasons, granting of this Petition is respectfully solicited. Please charge the required fee of \$130.00 under 37 C.F.R. 1.17(h) to the Undersigned Attorney's Deposit Account 10-0077. Any additional fees due in connection with this Petition should be charged to Deposit Account 10-0077.

Respectfully submitted,


Jerome D. Jackson
Reg. No. 33,186

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Telephone 703-684-4840
Facsimile 703-995-0318

DATED: 26 DEC 03



EXHIBIT A

PATENT

ATTORNEY DOCKET No. 104.005-04

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Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

DECLARATION OF JEROME D. JACKSON
IN SUPPORT OF PETITION TO MAKE SPECIAL

I, JEROME D. JACKSON declare that:

1. I typed www.[Company B].com into a web browser, connected to an Internet Service Provider. After that, I clicked through to a display (Display I) containing the text "Apply for a [Company A-Company B card] today," accompanied by a button APPLY NOW. I clicked on the button labeled APPLY NOW, completed an application presented online, and subsequently received a Company A-Company B card in the mail.

EXHIBIT A

2. Display I also includes the text "Order a smart card reader. Load Smart Coupons from your home computer," accompanied by a button ORDER NOW. I clicked on the button labeled ORDER NOW, completed an application presented online, and subsequently received a card reader and disk labeled "[Company B] smart Card Reader Software 2.0." Loading the disk into the D drive resulted in a directory "[Company A Company B]" containing files on the C drive.

3. Display I also includes the text "Load coupons to the smart chip on your [Company A-Company B card]," accompanied by a button LOAD COUPONS. Clicking on the LOAD COUPONS button resulted in the message "Do you want to install and run signed applet distributed by '[Company B] Corporation'?"

4. Equipped with the card, card reader, and software described above, one may click from the Company B site to another display (Display II). In Display II, there are different product coupons with product images.


5. Invoking the materials described above, I made a rigid comparison to claim 1 of the Instant Application and, in his opinion, claim 1 is unquestionably infringed. I made a rigid comparison to claim 6 of the Instant Application and, in his opinion, claim 6 is unquestionably infringed.

EXHIBIT A

6. I believe I have a good knowledge of the pertinent prior art. The known references most closely related to the subject matter encompassed by the claims of the Instant Application are already of record, having been cited or submitted to the USPTO in prior Applications, having difference claim scope or subject matter, relied upon for an earlier filing date under 35 U.S.C. § 120. MPEP 609 ("the Examiner will consider information which has been considered by the Office in a parent application and a list of the information need not be submitted in the continuation, divisional, or continuation-in-part application").

7. I believe that all of the claims of the Instant Application, claims 1-7, are allowable.

8. I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under section 1001 of Title 18 of the United States Code, and that any such willful false statements may jeopardize the validity of the application or any patent issuing thereon.

By: 
Jerome D. Jackson
26 DEC 03
Date